

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

WELSPUN GLOBAL BRANDS LTD., and
WELSPUN USA INC.,

Plaintiffs,

v.

AAVN, INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs Welspun Global Brands Ltd. and Welspun USA Inc. (collectively, “Welspun”) bring this action against AAVN, Inc. (“AAVN”) for a declaratory judgment that Welspun does not infringe any valid or enforceable claim of U.S. Patent No. 9,131,790 (“the ’790 patent”), entitled “Proliferated Thread Count of a Woven Textile by Simultaneous Insertion within a Single Pick Insertion Event of a Loom Apparatus Multiple Adjacent Parallel Yarns Drawn from a Multi-Pick Yarn Package,” and purportedly owned by AAVN. A true and correct copy of the ’790 patent is attached as **Exhibit A**.

Welspun seeks this necessary relief because AAVN has sent Welspun Global Brands Ltd. a demand letter, dated September 15, 2015 (“Demand Letter”), in which AAVN threatens to file an enforcement action in a court of law for what AAVN perceives as an infringement of the ’790 patent. The threat of suit by AAVN is real and not idle because in the past month alone, AAVN has filed patent infringement actions in at least five different cases asserting the ’790 patent. AAVN’s allegations have placed a cloud over Welspun’s business and have created a concrete and immediate justiciable controversy between Welspun and AAVN. A true and correct copy of the Demand Letter is attached as **Exhibit B**.

NATURE OF ACTION

1. This is an action for declaratory judgment seeking relief of noninfringement under the patent laws of the United States, Title 35, United States Code, the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and Fed. R. Civ. P. 57.

THE PARTIES

2. Plaintiff Welspun Global Brands Ltd. is a company organized and existing under the laws of the Republic of India and having a principal place of business located at Welspun City, Village Versamedi, Taluka Anjar, District Kutch, Gujarat 370 110, India, and corporate office at 6th Floor, Kamala Mills Compound, Senapati Bapat Marg, Lower Parel, Mumbai 400 013, India.

3. Plaintiff Welspun USA Inc. is a corporation organized and existing under the laws of the State of Delaware and having a principal place of business located at Suite No. 1118-1120, 295 Textile Building, 5th Avenue, New York, NY, 10016.

4. On information and belief, Defendant AAVN, Inc. is a corporation organized and existing under the laws of the State of Texas and having a principal place of business located at 1401 North Central Expressway, Suite 370, in Richardson, Texas 75080.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a), because this declaratory judgment claim arises under the United States Patent Laws, 35 U.S.C. § 100 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This matter presents an actual case or controversy and serves the purpose of resolving the legal rights of the parties.

6. On information and belief, AAVN is subject to personal jurisdiction in the Southern District of New York because AAVN conducts business in and directed at New York, NY, either directly or through intermediaries, including AAVN's wholly-owned subsidiary, Next Creations Holdings, LLC ("NEXTT"), a corporation having a principal place of business located at 105 Madison Ave, Ste. 502, New York, NY, 10016.

7. On information and belief, AAVN has at least established minimum contacts with New York, NY through its business activities in selling its woven textile fabrics and through its business activities in trying to license the '790 patent.

8. In an ITC Complaint filed on October 1, 2015, AAVN represents as part of its business activities, that "AAVN and its wholly-owned subsidiary Next Creations Holdings, LLC ("NEXTT") are the largest supplier of bed linens in the United States;" they "develop and design woven textile fabrics and products containing same;" they "have sold and continue to sell woven textile fabrics and articles containing same in the United States;" and that "AAVN will be in a position to fill any void in the market."

9. In that same ITC Complaint, AAVN represents as an additional part of its business activities the licensing and enforcing the '790 patent. In its ITC Complaint, AAVN represents that it has "expended substantial resources on domestic licensing efforts focused on the '790 patent. AAVN invests substantially in the exploitation of the '790 patent and the protection of its Alpha Cotton products through its licensing activities, which are singularly focused on the '790 patent." On information and belief, AAVN's licensing activities include business discussions with companies doing business in New York, NY, having specific sales operations or an office in New York, NY, and/or being headquartered in New York, NY.

10. On information and belief and given AAVN's systematic and continuous contacts with New York, AAVN could have reasonably foreseen litigating in this jurisdiction.

11. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b), (c), and (d), because among other reasons, AAVN is subject to personal jurisdiction in this judicial district and/or AAVN conducts business in this judicial district.

FACTUAL BACKGROUND

12. Welspun incorporates the preceding paragraphs as if fully set forth herein.

13. On information and belief, AAVN is the assignee of the '790 patent.

14. On September 15, 2015, Welspun received the Demand Letter from AAVN notifying Welspun that the '790 patent had recently issued and that AAVN's investigation revealed Welspun "may be involved in one or more aspects of making, using, importing, offering to sell, or selling of a product or process that infringes at least one claim of the '790 patent."

15. On September 15, 2015, AAVN filed a complaint against AQ Textiles, LLC, in *AAVN, Inc. v. AQ Textiles, LLC*, 2:15-cv-01527 (E.D. Tex. September 15, 2015), for patent infringement of the '790 patent, attached as **Exhibit C**.

16. On September 16, 2015, AAVN filed a complaint against Indo Count Global, Inc., in *AAVN, Inc. v. Indo Count Global, Inc.*, 2:15-cv-01531 (E.D. Tex. September 16, 2015) for patent infringement of the '790 patent, attached as **Exhibit D**.

17. On September 16, 2015, AAVN filed a complaint against Creative Textile Mills Private Limited, in *AAVN, Inc. v. Creative Textile Mills Private Limited*, 2:15-cv-01534 (E.D. Tex. September 16, 2015) for patent infringement of the '790 patent, attached as **Exhibit E**.

18. On September 16, 2015, AAVN filed a complaint against GHCL Limited, in *AAVN, Inc. v. GHCL Limited*, 2:15-cv-01532 (E.D. Tex. September 16, 2015) for patent infringement of the '790 patent, attached as **Exhibit F**.

19. On September 16, 2015, AAVN filed a complaint against Globe Cotyarn Private Limited, in *AAVN, Inc. v. Globe Cotyarn Private Limited*, 2:15-cv-01533 (E.D. Tex. September 16, 2015) for patent infringement of the '790 patent, attached as **Exhibit G**.

20. On October 1, 2015, AAVN filed a complaint in the ITC, alleging infringement of the '790 patent in *Certain Woven Textile Fabrics and Products Containing Same* (Inv. No. 337-TA-___), public version attached as **Exhibit H**. In its ITC Complaint, AAVN "seeks a permanent general exclusion order directed to excluding from entry into the United States certain woven textile fabrics and products containing same that infringe one or more asserted claims" of the '790 patent. AAVN additionally seeks limited exclusion orders and cease and desist orders.

21. AAVN's recent initiation of litigations with respect to the '790 patent, along with the Demand Letter issued to Welspun, are a clear, unmistakable, and imminent threat of litigation against Welspun, and Welspun has a reasonable apprehension of being sued by AAVN for infringement of the '790 patent.

COUNT I

DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '790 PATENT

22. Welspun incorporates the preceding paragraphs as if fully set forth herein.

23. Welspun has not directly infringed, and does not directly infringe, any claim of the '790 patent.

24. Welspun has not contributorily infringed, and does not currently contributorily infringe, any claim of the '790 patent.

25. Welspun has not induced, and does not currently induce, any infringement of any claim of the '790 patent.

26. Welspun is entitled to a declaration pursuant to 28 U.S.C. §§ 2201 and 2202 that Welspun does not infringe any claim of the '790 patent.

PRAYER FOR RELIEF

WHEREFORE, Welspun respectfully requests that this Court enter judgment in its favor as follows:

(a) declare that Welspun has not directly infringed, and does not currently directly infringe, any claim of the '790 patent;

(b) declare that Welspun has not contributorily infringed, and does not currently contributorily infringe, any claim of the '790 patent;

(c) declare that Welspun has not induced, and does not currently induce, any infringement of any claim of the '790 patent;

(d) declare this to be an exceptional case and award Welspun its costs, expenses, and disbursements in this action, including reasonable attorney fees, pursuant to 28 U.S.C. § 285; and

(e) award Welspun any further and additional relief that this Court deems just and proper.

JURY DEMAND

Welspun requests a trial by jury on all issues so triable.

Dated: October 15, 2015

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP

By: s/ Laura P. Masurovsky

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document, COMPLAINT FOR DECLARATORY JUDGMENT, was filed electronically on October 15, 2015 and is available for viewing and downloading from the ECF system.

By: s/ Laura P. Masurovsky